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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Fifty-ninth session

SUMMARY RECORD OF THE 1487th MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 14 August 2001, at 10 a.m.

Chairman: Mr. SHERIFIS

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The meeting was called to order at 10.15 a.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 5) (continued)

Draft concluding observations concerning Liberia (CERD/C/59/Misc.23/Rev.1)

1. Ms. McDOUGALL (Country Rapporteur) said that the draft text reflected the discussion in the Committee during its review of the situation in Liberia and included a statement of the Committee's interest in sending a mission to the country.

Paragraphs 1 and 2

2. Paragraphs 1 and 2 were adopted.

Paragraph 3

3. Mr. ABOUL-NASR proposed replacing the word "delegation" by "representative", since the stage of sending an actual delegation had never been reached.

4. Paragraph 3, as amended, was adopted.

Paragraph 4

5. Paragraph 4 was adopted.

Paragraph 5

6. Paragraph 5 was adopted with minor drafting changes.

Paragraph 6

7. Mr. ABOUL-NASR wondered why Liberia was being asked to ensure only that articles 2 to 4 of the Convention were reflected in domestic law.

8. The CHAIRMAN suggested that the words "articles 2 to 4" should be replaced by the words "the provisions".

9. Paragraph 6, as amended, was adopted.

Paragraph 7

10. Mr. PILLAI said that the reference in the second sentence to numerous reported instances of discrimination in Liberia and in the third sentence to reports of various other human rights violations should be qualified, for it was certainly not the Government that had made any such report.

11. Ms. McDOUGALL (Country Rapporteur) specified that the reports had come from both United Nations and non-governmental organization sources.

12. Mr. ABOUL-NASR said that the text was clear enough as it stood.

13. Paragraph 7 was adopted with a minor drafting change.

Paragraph 8

14. Mr. ABOUL-NASR observed that it was not enough to refer simply to the vulnerable "status" of Liberian refugees in neighbouring countries, where they were being subjected to starvation and death, and proposed that "status" should be replaced by the word "situation".

15. Ms. McDOUGALL (Country Rapporteur) supported by Ms. BRITZ, proposed deleting the last sentence stating that the lack of implementation of article 5 of the Convention concerned the Committee, because the reference only to article 5 was too restrictive, and the failure to implement the Convention as a whole had already been referred to in paragraph 6.

16. Paragraph 8, as amended, was adopted, with a minor drafting change.

Paragraph 9

17. Paragraph 9 was adopted.

Paragraph 10

18. Ms. McDOUGALL (Country Rapporteur) said that the paragraph, with its selective reference to the adoption of effective measures guaranteeing equal enjoyment of rights under articles 5 to 7, could also be deleted because paragraph 6 had taken care of the matter.

19. Mr. PILLAI, supported by the CHAIRMAN and Mr. de GOUTTES, pointed out that paragraph 6 referred only to appropriate legislative measures, whereas the effective measures referred to in paragraph 10 would include also administrative and other measures.

20. Mr. de GOUTTES, supported by the CHAIRMAN, said that, while paragraph 10 should be retained, the specific reference to articles 5 to 7 of the Convention should be deleted.

21. Paragraph 10, as amended, was adopted.

22. The CHAIRMAN suggested placing paragraph 10 immediately after paragraph 6, with paragraphs 7 to 9 renumbered accordingly.

23. It was so decided.

Paragraph 11

24. Paragraph 11 was adopted.

Paragraph 12

25. Mr. THORNBERRY said that the recommended investigation and prosecution in paragraph 12 did not add much to the idea of bringing perpetrators to justice in paragraph 11.

26. Ms. BRITZ said that paragraph 11 referred to human rights abuses perpetrated during the civil war, whereas paragraph 12 referred to all acts of violence against ethnic and racial groups.

27. Ms. McDOUGALL (Country Rapporteur) said that she would prefer to keep two separate paragraphs regarding the past and the present.

28. Paragraph 12 was adopted.

Paragraph 13

29. Ms. McDOUGALL (Country Rapporteur) proposed deleting the words "make efforts to" before "facilitate" and adding "ensure" before "the effectiveness of".

30. Paragraph 13, as amended, was adopted.

Paragraphs 14 and 16

31. Ms. McDOUGALL (Country Rapporteur), referring to paragraph 14 and the letter which the Committee intended to send, urging the State party to submit a report in keeping with its obligation and to enter into a dialogue with it, said that she had had in mind not the routine note verbale sent with the Secretary-General's signature to all States parties, but a much more forceful letter expressing concern over Liberia's lack of compliance with its reporting obligations.

32. Mr. RESHETOV, supported by Mr. de GOUTTES and Mr. TANG Chengyuan, said that paragraph 14 regarding the letter should be combined with paragraph 16 stating the Committee's serious concern over Liberia's grave failure to implement the Convention and to comply with its international obligations and expressing the Committee's interest in sending a fact-finding mission to Liberia.

33. He proposed further that the request in paragraph 16 that the secretariat should consider the financial implications of such a mission should be deleted, for that was a purely internal affair.

34. It was so decided.

35. Mr. YUTZIS, supported by Mr. de GOUTTES, Mr. BOSSUYT, Mr. DIACONU, and Mr. THORNBERRY, said that the Committee should refer to the mission as well in its letter, but should simply express its interest in sending one or more members to visit Liberia with a view to assisting the Government in its implementation of the Convention. It was not traditional for the Committee to send "fact-finding" missions.

36. Mr. ABOUL-NASR concurred. The Committee had no authority to send fact-finding missions; besides which, it had the facts already in the case of Liberia.

37. Ms. McDOUGALL (Country Rapporteur) proposed that the new combined paragraph should read: "The Committee decides to send a letter to the State party expressing its very serious concern about the grave situation in the Republic of Liberia from the point of view of implementation of the Convention, and states its intention to send a mission to Liberia with a view to establishing a dialogue and assisting the State party in fulfilling its obligations under the Convention."

38. Mr. ABOUL-NASR, supported by Mr. THORNBERRY, said that expressing the Committee's "intention" to send a mission was too strong a statement. It could express willingness.

39. Mr. PILLAI proposed that the Committee should state its interest in sending a mission.

40. Mr. THORNBERRY said that it would be preferable to speak of "initiating" a dialogue rather than establishing one.

41. The CHAIRMAN said that the question of a Committee decision on the situation in Liberia should also be considered.

42. Mr. RESHETOV said that the strongly worded letter should cover all the points in current paragraphs 14 and 16. The Committee could then also take a decision stating that it wished to send a mission to the State party and expected a response from the State party in that regard.

43. Mr. BOSSUYT, supported by Mr. DIACONU, said he thought that the Committee's decision should deal with the gravity and urgency of the situation in Liberia, as had been done in the case of its decision on Cyprus earlier in the session and as was usually done when confronting extremely serious situations. The Committee's letter should touch on Liberia's non-compliance with the Convention and with its reporting obligations, speak of the Committee's wish to visit the country to help it to meet its obligations and to enter into a dialogue, and ask for a response.

44. Mr. RESHETOV, supported by Ms. McDOUGALL (Country Rapporteur), said he saw no reason why the visit should not be mentioned in the decision as well, which would have more of an impact on the Government. The Committee had to be firm about its desire to visit the country.

45. Mr. DIACONU agreed that it would be too weak a statement if the visit to the country was mentioned only in the letter, which would be seen by the State party alone. It must be mentioned in the decision, which went to the General Assembly and received wide attention.

46. It was so decided.

47. The CHAIRMAN asked Ms. McDougall to redraft paragraphs 14 and 16 of the draft concluding observations as one combined paragraph, taking into account the Committee's comments, and in addition to prepare a draft letter to the State party and a draft decision of the Committee, along the lines agreed upon, for consideration at a subsequent meeting.

Paragraph 15

48. Mr. ABOUL-NASR said that it was improbable that a country which had never reported would give wide publicity to the Convention or to the Committee's observations.

49. The CHAIRMAN stated that further consideration of the draft concluding observations on Liberia would be adjourned until paragraphs 14 to 16 had been recast and the letter and decision had been drafted.

Draft concluding observations concerning the seventh to ninth periodic reports of Sri Lanka (CERD/C/59/Misc.20/Rev.2)

50. Mr. TANG Chengyuan (Country Rapporteur) said that the draft concluding observations incorporated amendments proposed by Committee members but he would welcome further discussion.

Paragraphs 1 and 2

51. Paragraphs 1 and 2 were adopted.

Paragraph 3

52. Mr. YUTZIS suggested that, in the first line, the word "serious" should be replaced by "grave".

53. Mr. ABOUL-NASR and Mr. TANG Chengyuan (Country Rapporteur) said that they were in favour of retaining "serious".

54. Paragraph 3 was adopted without amendment, but with a minor drafting change.

Paragraphs 4 and 5

55. Paragraphs 4 and 5 were adopted.

Paragraph 6

56. After a brief discussion in which Mr. ABOUL-NASR, Mr. DIACONU and Mr. BOSSUYT took part, The CHAIRMAN said he took it that the Committee wished the title of the International Covenant on Civil and Political Rights to be spelled out in full and "first" to be inserted before the words "Optional Protocol".

57. Paragraph 6, as amended, was adopted.

Paragraph 7

58. Ms. BRITZ queried the accuracy of the contents of the paragraph, since she had read a report from the United States Committee for Refugees that the supply of food and medicine by the Sri Lankan Government to displaced and needy persons had been consistently inadequate.

59. Mr. PILLAI said that he, too, had read reports from NGOs that, while the Sri Lankan Government supplied not only food, but also other kinds of relief, the distribution of those materials had not been effective. He therefore advocated the deletion of the paragraph.

60. Mr. ABOUL-NASR pointed out that the paragraph referred to a statement which had been made to the Committee by a representative of the Sri Lankan Government. Consequently he proposed that it should be reworded to the effect that the Committee appreciated the Government's statement.

61. Mr. YUTZIS said that Mr. Aboul-Nasr's proposal was apposite in the light of reports that the Government itself was hindering relief supplies.

62. The CHAIRMAN recalled that the representative of the Sri Lankan Government had asserted that movement between various parts of the country was difficult, because areas were controlled by different forces. Even though roadblocks and war were likely to hamper the distribution of food, the Government should be encouraged to give assistance to those in need and the Government's assurances that they were endeavouring to do so should be welcomed.

63. Mr. VALENCIA RODRIGUEZ proposed that the paragraph should be worded "The Committee notes that the Government has continued to provide some assistance to displaced and other needy citizens."

64. Mr. BOSSUYT commented that the paragraph should refer to the statement that relief was being given but, as it stood, it treated the supply of food relief as if it were a fact.

65. Mr. de GOUTTES said that, since the Government's claim that it was striving to expand food aid had been challenged, he favoured the deletion of paragraph 7 and the inclusion of a recommendation that the Government should step up its efforts to supply such aid, otherwise all that the Committee could say was that it took note of the information from the Government regarding its ongoing attempts to provide more food aid. The Committee could go no further than that, because the point was controversial.

66. Mr. TANG Chengyuan (Country Rapporteur), supported by Mr. PILLAI, proposed that the paragraph should read "The Committee welcomes the statement by the Government that it will continue to provide food and other kinds of relief to displaced and other needy citizens", in order to encourage the Government to persevere with its efforts and also in order to take account of the comments made by Mr. Bossuyt and Mr. Pillai.

67. Paragraph 7, as amended, was adopted.

Paragraph 8

68. Mr. BOSSUYT suggested replacing the words "cleared and uncleared" by the word "all".

69. Paragraph 8, as amended, was adopted.

Paragraph 9

70. Paragraph 9 was adopted.

Paragraph 10

71. Mr. BOSSUYT said that page 18 of the supplementary report of Sri Lanka referred to "a regional legislative assembly enjoying federal powers", which suggested that devolution would go so far as to make Sri Lanka a federal state. Such a proposal should be reflected and he suggested adding the words "leading to the establishment of a regional legislative assembly enjoying federal powers" at the end of the paragraph.

72. Ms. BRITZ said that the proposals for constitutional reform did not actually include establishment of such an assembly. She suggested adding, instead, the words "and appreciates its willingness to come to a negotiated political solution".

73. The CHAIRMAN said the issue was an important one, since the State party's intention was to reach a solution, which would in turn facilitate the implementation of the Convention in Sri Lanka. The Committee therefore needed to choose its words carefully.

74. Mr. ABOUL-NASR said the proposal was for negotiation, not for establishment of a regional assembly, although that could be one element of the negotiation. The details of the proposal for negotiation were not clear and the Tamils had in fact turned down the offer of negotiations. The Committee could welcome the proposal for a negotiated peaceful settlement, for example, but until something concrete developed from the proposal, it would be better not to mention specific points.

75. Mr. BOSSUYT suggested that the additional words at the end of the paragraph should read "as well as its willingness to come to a negotiated political solution in that area, leading to the establishment of a regional legislative assembly enjoying federal powers".

76. Mr. DIACONU said the meaning of the words "federal powers" was unclear: did it mean the assembly would legislate for the whole territory?

77. Mr. BOSSUYT said it meant that the regional assembly would be entitled to exercise powers in the framework of a federal state. Federalization in Sri Lanka's case meant evolution from an existing unitary State through the devolution of power towards the regions, as in Belgium, rather than a confederation of existing states into a federal State, as in the United States and Germany.

78. Mr. PILLAI said it was important to remember that the aim of the Government's proposal for constitutional reform was not to solve the ethnic issue but rather to resolve larger constitutional issues, of which the ethnic issue was only one instance. Negotiations would take place not only with The Liberation Tigers of Tamil Eelam (LTTE) but also with the other opposition parties. Therefore, although the Committee's comment could mention devolution of power, it should be placed in the context of larger constitutional reforms.

79. Mr. BOSSUYT suggested that the amendment should read "as well as its willingness to come to a negotiated political solution, inter alia leading to the establishment of a regional legislative assembly enjoying federal powers".

80. It was so decided.

81. Paragraph 10, as amended, was adopted.

Paragraphs 11 and 12

82. Paragraphs 11 and 12 were adopted.

Paragraph 13

83. Paragraph 13 was adopted with a minor drafting change.

Paragraph 14

84. Mr. ABOUL-NASR said that the paragraph was not clear. If it was a matter of foreigners being granted Sri Lankan citizenship, was it wise for the Committee to begin requesting States parties to grant citizenship to foreigners? If it was a matter of Tamils of Sri Lankan nationality being treated differently from other nationals, then the Committee should request the Government to ensure equal treatment. The same applied if it was a matter of discrimination between Tamil foreigners and other foreigners.

85. Ms. BRITZ said that, as far as the Tamils of Indian nationality were concerned, she agreed with Mr. Aboul-Nasr. However, some 100,000 of their descendants, who had been born in Sri Lanka, were in fact stateless and the Committee should therefore address their situation.

86. Mr. de GOUTTES said that the Tamils of Indian origin referred to were plantation workers and it might be better to refer to them in that way.

87. Mr. THORNBERRY said that the issue concerned a long-established community, not recent arrivals to Sri Lanka. The term "plantation Tamils" could perhaps be used. The problem was specific to Sri Lanka and it was important to retain the paragraph.

88. Mr. PILLAI noted that the State party's report referred specifically to the problem of stateless plantation workers (paras. 92-97) and stated that it would be resolved with the enactment of the new Constitution. It had also been mentioned by the head of the Sri Lankan delegation. He therefore suggested, in addition to the amendment suggested by Mr. Thornberry, replacing the word "effective" in the final sentence by the words "early and effective".

89. Mr. BOSSUYT said he was concerned because the report also stated that those who were not granted citizenship would be repatriated. If the measures taken to solve the problem included repatriation, that would not be appropriate for such long-term residents. He therefore suggested adding the words "and that they should not be threatened with repatriation" at the end of the final sentence.

90. Mr. ABOUL-NASR said that the Committee, in suggesting that plantation Tamils should be given Sri Lankan citizenship, appeared to be choosing only one of the various options available under international law regarding refugees and stateless persons, while ignoring the others. Would that apply to all workers who had lived in a given country for a certain number of years? What would it imply for the Gulf States, for example, where there were 200,000 nationals and 1 million workers from the Indian sub-continent?

91. Mr. de GOUTTES said that, in order to address Mr. Aboul-Nasr's concerns, it might be better to limit the scope of the first sentence by inserting the words ", principally plantation workers," after the word "descendants".

92. Paragraph 14, as amended, was adopted.

Paragraph 15

93. Mr. ABOUL-NASR suggested that compensation for indigenous peoples' losses should also be mentioned. The issue was topical in the context of the World Conference against Racism and he believed that indigenous peoples in any country were entitled to compensation for their losses.

94. The CHAIRMAN said that due note would be taken of Mr. Aboul-Nasr's comments.

95. Paragraph 15 was adopted without amendment.

Paragraph 16

96. Mr. YUTZIS said that the words "and a single national identity" should be added after "communal harmony" in order to reflect all three objectives of the Sudu Nelum Movement (CERD/C/357/Add.3, para. 39). It was important that those objectives, which were supported by

the Government, should be further clarified, in particular the notion of a single national identity, which might be used to ignore the rights of ethnic minorities or promote blind nationalism or assimilation.

97. Mr. DIACONU asked whether, in expressing its concern about Sudu Nelum's pro-Government approach the Committee could realistically expect Sudu Nelum to also advocate other solutions, such as an independent Tamil State or devolution of power (para. 16). He proposed deleting the paragraph.

98. Ms. BRITZ and Mr. BOSSUYT supported that proposal.

99 Paragraph 16 was deleted.

Paragraph 17

100. Mr. DIACONU, supported by Mr. ABOUL-NASR, suggested inserting the words "involving racial discrimination" after "human rights violations" in the third line.

101. After an exchange of views in which Mr. DIACONU, Ms. BRITZ and Mr. THORNBERRY took part, the CHAIRMAN said he took it that the Committee also wished to replace "the obligation" with "its obligation" and, in the second sentence, replace "knowledge of international human rights" with "knowledge of the principles of international human rights instruments".

102. Paragraph 17, as amended, was adopted.

Paragraph 18

103. Following comments by Mr. ABOUL-NASR and Mr. THORNBERRY on the feasibility of obtaining so much information from the State party, the CHAIRMAN, noting that many States parties were also unable to provide current statistics, suggested that the first sentence of the paragraph, and the words "In this context" at the beginning of the second sentence, should be deleted.

104. Mr. PILLAI expressed doubts about the State party's definitions of ethnic groups in its report (CERD/C/357/Add.3, para. 3), for example the classification of "Muslims" as an ethnic group, and suggested that a sentence should be added at the end of the paragraph which would read: "The Committee would further recommend review of the characterization of ethnic groups in its reports."

105. Paragraph 18, as amended, was adopted.

Paragraph 19

106. The CHAIRMAN suggested that the word "detailed" should be deleted.

107. Mr. BOSSUYT, supported by Mr. de GOUTTES, with reference to part (e), asked how realistic it was to expect the Government to supply comprehensive information on violations of the rights of ethnic minorities.

108. Ms. BRITZ, said that it was important to have information on the human rights situation, in particular to assess the extent to which the Tamil population were victims of discrimination.

109. Mr. THORNBERRY, following suggestions and views expressed by Mr. DIACONU, Mr. de GOUTTES and Mr. FALL, proposed that the current part (e) should be replaced by "measures taken to eliminate racial and other discrimination against Tamil and other groups".

110. Mr. PILLAI, supported by Mr. FALL, said that the real problem of violations arose in the context of implementation of the Prevention of Terrorism Act and the Emergency Regulations and suggested that, at the end of part (f), the words "particularly its application to Tamils" should be replaced by "and Emergency Regulations, particularly their application to Tamils and other minority groups".

111. Paragraph 19, as amended, was adopted.

Paragraphs 20 to 22

112. Paragraphs 20 to 22 were adopted.

Paragraph 23

113. The CHAIRMAN asked whether the date of 20 March 2003 was correct, given the fact that it was less than two years from the current date.

114. Mr. BOSSUYT said that in view of the situation in Sri Lanka and the Committee's concerns in that regard, it would be appropriate to retain the date of 20 March 2003.

115. Paragraph 23 was adopted.

116. The draft concluding observations of the Committee concerning the seventh to ninth periodic reports of Sri Lanka as a whole, as amended and subject to agreed drafting changes, were adopted.

The meeting rose at 1 p.m.